

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

	-X	
MY24HOURNEWS.COM, INC,	:	
	:	
<i>Plaintiff,</i>	:	
	:	
vs.	:	Civil Action No. 1:18-cv-1647-MHC
	:	
AT&T CORP., VERIO, INC., NTT	:	
AMERICA, INC., ENDURANCE	:	
INTERNATIONAL GROUP	:	
HOLDINGS, INC. and GENACOM, INC.	:	
	:	
<i>Defendants.</i>	:	
	-X	

**DEFENDANTS AT&T CORP., VERIO INC., NTT AMERICA, INC. AND  
GENACOM, INC.’S MEMORANDUM OF LAW IN SUPPORT OF  
UNOPPOSED JOINT MOTION TO SEAL**

Defendants AT&T Corp. (“AT&T”), Verio Inc., NTT America, Inc. and Genacom, Inc. jointly seek leave to file under seal certain portions of the AT&T Wholesale Master Services Agreement entered into by Plaintiff My24HourNews.Com, Inc. and AT&T on August 23, 2012, and its attached (i) AT&T Network Pricing Integration Services and Equipment Resale agreement (“NI Pricing Schedule”) and its attached Statement of Work; (ii) AT&T Content Delivery Network Pricing Schedule; and (iii) AT&T Synaptic Hosting Service

Pricing Schedule (collectively, the “MSA”) submitted as Exhibit E to the Declaration of David L. Balser in support of AT&T’s Motion to Dismiss. Plaintiff does not oppose this motion.

Although exhibits are presumed to be filed publicly per the “common law right of access,” that presumption “may be overcome by a showing of good cause.” *Romero v. Drummond Co.*, 480 F.3d 1234, 1246 (11th Cir. 2007). In considering whether good cause exists, courts in this Circuit “balanc[e] the public interest in accessing court documents against a party’s interest in keeping the information confidential” by “consider[ing], among other factors, whether allowing access would impair court functions or harm legitimate privacy interests, the degree of and likelihood of injury if made public, the reliability of the information, whether there will be an opportunity to respond to the information, whether the information concerns public officials or public concerns, and the availability of a less onerous alternative to sealing the documents.” *Id.*

The MSA contains confidential and proprietary business information of a commercially sensitive nature regarding the terms and pricing on which AT&T offers services to its customers and therefore is properly protected from public disclosure. *See* Fed. R. Civ. P. 26(c)(1)(G) (authorizing courts to require “that a trade secret or other confidential research, development, or commercial

information not be revealed or be revealed only in a specified way”). If this information were revealed to the general public it would harm AT&T’s business by creating an unfair business advantage for AT&T’s competitors in their business relations with AT&T’s customers and potential customers. This Court has recognized that this is a proper basis for sealing, *Reid v. Viacom Int’l Inc.*, No. 1:14-CV-1252-MHC, 2016 WL 4157208, at \*5 (N.D. Ga. Jan. 25, 2016) (granting motion to seal “confidential business agreements”), and other courts within this circuit have done likewise. *See, e.g., Chemence Med. Products, Inc. v. Medline Indus., Inc.*, 1:13-CV-500-TWT, 2015 WL 149984, at \*5 (N.D. Ga. Jan. 12, 2015) (granting motions to seal, inter alia, exhibits with “terms of a confidential agreement,” and “information regarding confidential business negotiations”); *MEDAI, Inc. v. Ouantros, Inc.*, No. 6:12-CV-840-ORL-37, 2012 WL 2512007, at \*2 (M.D. Fla. June 29, 2012) (“The likelihood of injury to the parties if the Agreement is placed into the public domain is great, and filing it under seal would protect their confidential information from unnecessary exposure to their competitors.”).

Consistent with these decisions, in a prior iteration of this litigation, the United States District Court for the District of Colorado recognized the harm to AT&T if the pricing information were publicly disclosed and therefore granted

AT&T leave to file the NI Pricing Schedule as a “Level I Restricted Document” which is tantamount to granting leave for it to be filed under seal. *See My24HourNews.Com v. AT&T Corp.*, No. 1:15-cv-1210 (D. Colo. July 21, 2016) (ECF 130).

Finally, sealing is also appropriate because the information at issue here will not impair court functions or harm private interests and does not concern public officials or any matter of public importance. Moreover, as is evident from the proposed redactions attached hereto, AT&T does not seek a wholesale sealing of the record in this case. Instead, recognizing the presumption of public access, AT&T has carefully identified only confidential information that would threaten to cause a competitive disadvantage or injury if disclosed to the public, and the order that AT&T seeks is narrowly tailored to achieve the aim of protecting only that material.

Accordingly, Defendants respectfully request that this Court place under seal the redacted portions of Exhibit E to the Declaration of David L. Balser in support of AT&T’s Motion to Dismiss.

Respectfully submitted, this 21st day of June, 2018.

/s/ David L. Balser

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**TYPE AND FONT CERTIFICATION**

The undersigned certifies that the foregoing complies with Local Rule 5.1(B) regarding typefaces and fonts.

/s/ David L. Balser

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2018, a true and correct copy of the foregoing **MEMORANDUM OF LAW IN SUPPORT OF UNOPPOSED JOINT MOTION TO SEAL** was electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing and make available the same to all counsel of record:

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